

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE: PHENYLPROPANOLAMINE
(PPA) PRODUCTS LIABILITY
LITIGATION,

MDL NO. 1407

This document relates to:

Pamela Stowe v. Bayer Corpora-
tion, No. 4-cv-2351.

ORDER DENYING PLAINTIFF'S
MOTION TO QUASH DEPOSITION
NOTICES AND PETITION FOR
SUGGESTION OF REMAND ORDER

Before the court is plaintiff's motion to quash the deposition notices of Ruth Matthews, R.N. and Trina Scupin, R.N. Having reviewed the motion, the opposition filed and the reply thereto, the court hereby finds and rules as follows:

Plaintiff alleges she suffered a stroke as the result of ingesting a PPA-containing product manufactured by Bayer Corporation. She initially filed suit in state court, in Philadelphia County, Court of Common Pleas, Pennsylvania, in August 2001. Her case was ultimately transferred to this court as part of MDL 1407 on February 7, 2005. Plaintiff asserts that Bayer has intentionally delayed the case from going to trial by failing to pursue discovery in a timely manner. Plaintiff objects

ORDER

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1 to Bayer's current request to depose two nurses that treated
2 plaintiff for her injuries and requests that the court quash the
3 notices of their depositions.

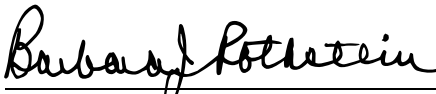
4 The court finds that Bayer is entitled to depose Nurse
5 Matthews and Nurse Scupin. The reason it has taken four years for
6 this case to reach its current state of discovery is that
7 plaintiff first filed suit in the wrong court (Pennsylvania).
8 Then, after the action was dismissed on *forum non conveniens*
9 grounds, conditioned on Bayer waiving service and the Arizona
10 Statute of Limitations, plaintiff filed in a second wrong court
11 (New Jersey). After that action was dismissed, plaintiff waited
12 six months before filing her action in Arizona. Fact discovery
13 could not begin until the case was transferred and docketed in
14 MDL 1407, which did not occur until February 7, 2005. Further,
15 plaintiff did not complete the Plaintiff's Fact Sheet ("PFS")
16 until August 17, 2005, which she then supplemented on August 31,
17 2005 and again on September 6, 2005.

18 Per the Case Management Orders in MDL 1407, the case-
19 specific fact discovery deadline expires one year from the date
20 on which the PFS is substantially complete in all respects.
21 However, Bayer has agreed to shorten the discovery period to six
22 months, to February 14, 2006. The court finds this reasonable.

23 Based on the foregoing, the court DENIES plaintiff's motion
24 to quash and sets the case-specific fact discovery deadline in
25 this case to and including February 14, 2006. The court expects
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1 the plaintiff to cooperate in all respects with discovery. In
2 addition, because outstanding discovery remains in this matter,
3 the court DENIES plaintiff's petition for suggestion of remand.

4 DATED at Seattle, Washington this 23rd day of November,
5 2005.

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8 BARBARA JACOBS ROTHSTEIN
UNITED STATES DISTRICT COURT JUDGE
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